

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION AT CINCINNATI**

<b>ALLSTATE INSURANCE CO.</b>	<b>:</b>	<b>CASE NO. C-1-00 880</b>
		<b>(consolidated with Case No. C-1-00 935)</b>
<b>Plaintiff,</b>	<b>:</b>	<b>JUDGE HERMAN J. WEBER</b>
<b>v.</b>	<b>:</b>	
<b>YUNG K. YU, et al.</b>	<b>:</b>	
<b>Defendants.</b>	<b>:</b>	

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<b>HUGH L. MARTIN, et al.</b>	<b>:</b>	<b>CASE NO. C-1-00 935</b>
<b>Plaintiffs,</b>	<b>:</b>	
<b>v.</b>	<b>:</b>	
<b>YUNG K. YU, et al.</b>	<b>:</b>	
<b>Defendants.</b>	<b>:</b>	

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**DEFENDANT, WAUSAU BUSINESS INSURANCE COMPANY'S MOTION TO  
REINSTATE CASE; DEFENDANT, WAUSAU BUSINESS INSURANCE COMPANY'S  
RENEWED MOTION FOR SUMMARY JUDGMENT**

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Now comes Defendant, Wausau Business Insurance Company, to move this Court to reinstate the above-captioned case, and to move this Court to enter judgment in favor of Wausau Business Insurance Company as a matter of law. The bases for these motions is set forth in the accompanying memorandum.

**MEMORANDUM**

On January 14, 2003, this Court issued an Order staying the above-captioned case pending the Ohio Supreme Court's decision in the case of *Allen v. Johnson*. The Ohio Supreme Court decided *Allen v. Johnson* on November 5, 2003. A copy of the Decision is attached hereto as Exhibit A. On that same date, the Ohio Supreme Court decided *Westfield Insurance Company v. Galatis*, 100 Ohio St.3d \_\_\_, 2003-Ohio-5849. A copy of that Decision is attached hereto as Exhibit B. In *Galatis*, the Supreme Court rejected and overruled the *Scott-Pontzer* decision. Plaintiffs in this case rely upon *Scott-Pontzer* in pursuing their claims against Wausau. Based upon the *Galatis* and *Allen* decisions, and incorporating by reference the argument, authority and factual support set forth in the previous motion for summary judgment filed by Wausau (including all supporting memoranda), Wausau moves this Court for summary judgment.

s/Brian L. Wildermuth

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**CERTIFICATE OF SERVICE**

I hereby certify that on November 10, 2003, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following:

**Timothy Paul Heather**

tpheather@byhlaw.com

Attorney for Plaintiff Allstate Insurance Company

I hereby certify that I have mailed by U. S. Mail the document to the following non-CM-ECF participants:

**Charles H. Rittgers, Esq./James Dearie, Esq.**

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